

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

THE MACHINERY MOVERS, RIGGERS,)	
& MACHINERY ERECTORS LOCAL NO.)	
136 SUPPLEMENTAL PENSION FUND,)	
THE MACHINERY MOVERS, RIGGERS,)	
& MACHINERY ERECTORS LOCAL NO.)	
136 HEALTH & WELFARE FUND, THE)	
MACHINERY MOVERS, RIGGERS &)	
MACHINERY ERECTORS LOCAL NO.)	
136 DEFINED CONTRIBUTION TRUST,)	
and THE MACHINERY MOVERS,)	
RIGGERS & MACHINERY ERECTORS)	
LOCAL NO. 136)	Case No.: 18-cv-05348
)	
Plaintiffs,)	Hon. Judge Chang
)	
v.)	Magistrate Judge Valdez
)	
TBII, Inc., an Illinois corporation)	
)	
Defendant.)	
)	

AMENDED MOTION FOR JUDGMENT IN SUM CERTAIN

Plaintiffs, by and through one of their attorneys, Grant R. Piechocinski, and Gregorio & Marco Ltd., respectfully request that this Honorable Court enter Judgment in Sum Certain in favor of Plaintiffs and against Defendant, TBII, Inc., in the amount of \$18,931.47 including attorney's fees. In support of this motion, Plaintiffs state as follows:

1. This case was filed on August 28, 2018.
2. Defendant TBII Inc. was served with Summons and Complaint on August 6, 2018 as shown on the return of service filed as Docket Entry No. 7 and attached hereto as Exhibit A.

3. This Court granted Plaintiffs' Motion for Judgment on the Pleadings as to liability on September 10, 2018 (See Docket Entry No. 15).
4. On September 24, 2018 Plaintiffs moved for judgment in sum certain for amounts owed through August 2018. (Docket Entry No. 16).
5. Defendant filed a response opposing the motion for judgment in sum certain. (Docket Entry 19). Defendant argues that the Mid-America Pension Fund, Apprenticeship & Training Fund, I.M.P.A.C.T. Fund, and the International Organizing Fund are not Plaintiffs. Therefore, amounts owed to these Funds cannot be part of the judgment.
6. Plaintiffs filed a reply in support of the motion for judgment in sum certain. (Docket Entry 20).
7. The motion for judgment in sum certain is currently pending before the Court and has been fully briefed since November 13, 2018.
8. While the motion for judgment has been pending, TBII, Inc. continues to not pay monthly contribution reports. Defendant has failed to make payment on any monthly contribution reports for 2018 and 2019 remain unpaid.
9. TBII, Inc. made some payments towards the outstanding reports for 2017. Additionally, the Plaintiffs received payment on TBII, Inc.'s fringe benefit bond. However, even with these payments, there remain amounts owed for the period through August 2018.
10. Amounts owed to the Mid-America Pension Fund have not been sought in this matter.
11. Plaintiffs have filed this amended motion for judgment in sum certain to account for the payments received. Additionally, Plaintiffs have removed amounts owed to the Apprenticeship & Training Fund, I.M.P.A.C.T. Fund, and the International Organizing Fund.
12. This amended motion for judgment in sum certain maintains the time period as the original motion for judgment in sum certain and only seeks to collect amounts owed through August 2018.
13. TBII, Inc. owes \$13,147.73 in unpaid contributions for the months of October 2017, and December 2017 through August 2018 (See Affidavit of Patrick Gallery, ¶7 Attached as Ex. B).

14. TBII, Inc. owes \$1,521.24 in interest and liquidated damages for contributions that were paid late for the period of July 2017 through August 2018. (See Affidavit of Patrick Gallery, ¶8 Attached as Ex. B).
15. Defendant is liable for ancillary damages for not timely paying fringe benefits contributions including attorneys' fees and costs pursuant to the CBA, Trust Agreements, and 29 U.S.C. § 1132(g)(2).
16. The total fees and costs expended in this matter are \$4,262.50 (See Declaration of Grant Piechocinski, Attached as Ex. C).

WHEREFORE, Plaintiffs move this Honorable Court to:

- A. Enter judgment in favor of the Plaintiffs and against Defendant, TBII, Inc. in the amount of \$18,931.47.
- B. Such other and further relief as this Honorable Court deems just under the circumstances.

Dated: June 20, 2019

Respectfully Submitted,

**Trustees of the Riggers Local 136
Pension Fund, et al.**

By: /s/ Grant R. Piechocinski
One of their attorneys

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